

September 24, 2002

Re: Medical Dispute Resolution
MDR #: M2-02-0444-01
IRO Certificate No.: IRO 5055

Dear

In accordance with the requirement for TWCC to randomly assign cases to IROs, TWCC assigned your case to ___ for an independent review. ___ has performed an independent review of the medical records to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. Your case was reviewed by a physician Board Certified in Orthopedic Surgery and in Spinal Surgery.

The physician reviewer DISAGREES with the determination of the insurance carrier. The reviewer is of the opinion that the LUMBAR DISKOGRAM WITH POST-DISKOGRAPHIC CT IS MEDICALLY NECESSARY.

I am the Secretary and General Counsel of ___ and I certify that the reviewing physician in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

We are forwarding herewith a copy of the referenced Medical Case Review with reviewer's name redacted. We are simultaneously forwarding copies to the patient, the payor, and the Texas Workers' Compensation Commission. This decision by ___ is deemed to be a Commission decision and order.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of this decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within **ten (10)** days of your receipt of this decision (28 Tex. Admin. Code 142.5©).

If disputing other prospective medical necessity (preauthorization) decisions a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within **twenty (20)** days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This Decision is deemed received by you **five (5)** days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5 (d)). A request for a hearing should be sent to:

Chief Clerk of Proceedings
Texas Workers' Compensation Commission
P.O. Box 40669
Austin, TX 78704-0012

A copy of this decision should be attached to the request. The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute.

I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on September 24, 2002.

Sincerely,

MEDICAL CASE REVIEW

This is ___ for ___. I have reviewed the medical information forwarded to me concerning MDR #M2-02-0444-01, in the area of Orthopedic and Spinal Surgery. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. TWCC MDR Tracking Sheet.
2. Medical Dispute Resolution Request/Response, 03/19/02: The issue of the MDR Response is ___ is no longer pursuing surgery and rescinded the pre-authorization request.
3. Letter from ___ concerning ___ request for lumbar diskogram, L3-4, L4-5, L5-S1, with an adverse determination, dated

- 11/29/01. Rationale for denial per physician advisor is multi-level disk disease noted on prior imaging in a 40-year-old with no evidence of back pain predominant. No reasonable support for consideration of fusion, given prior imaging results.
4. ___ second denial for lumbar diskogram, L3-4, L4-5, L5-S1, dated 12/24/01. Rationale for denial: "I discussed with ___ concerning his plans; I understand he is searching for a symptomatic disk. He can report no proven instability to me at this time and is planning a fusion and that patient have a diskogram. No reason to do a fusion for degenerative changes. There are false-positives on diskography. Diskogram cannot be used as a basis to determine the need for fusion. Fusion or any type of surgery for back pain alone is completely uncalled for."
 5. ___: Lumbar diskogram, adverse determination, dated 9/24/01. Rationale: Multiple-level disk disease noted on prior imaging studies. Request not justified as diskography is subjective. No reasonable support for fusion.
 6. ___ Pre-Authorization Services: Adverse determination for lumbar diskogram with CT scan, dated 10/01/01. Spoke with ___, and he feels that surgery of 2/01 was 100% failure and this is the reason for the need for additional diagnostic studies. He states he agrees with the previous decision of the physician advisor that psychological situation or issues need to be addressed prior to further diagnostic studies.
 7. Letter dated 12/20/01 from ___, ___: Review concerning a denial appeal for the diskogram. Letter is addressed to ___. "I reviewed the records of the patient and contacted ___. I understand he is searching for a symptomatic disk." "There is no reason to do a fusion for degenerative disk changes as this is not indicated as has been repeatedly shown. This lady has been reported to have degenerative disk disease at multiple levels. Fusion or any type of surgery for back pain is completely uncalled for."
 8. Operative report from ___, dated 02/01/01. Operative procedure is left L3-4 total facetectomy, lateral recess decompression, nerve decompression, excision of L3-4 foraminal disk, micro lumbar discectomy.
 9. Follow-up note from ___, dated 10/24/01: The radicular symptoms are resolved. She continues to have low back pain which has gradually gotten worse despite therapy. She is now developing some recurrent left leg pain. Medications are Celebrex, hydrocodone, Vanadon, quinine, and Phenergan.

Diagnosis is left lumbar radiculopathy, left hip pain. The plan is to add Neurontin and trazodone to the medications, obtain an EMG and nerve conduction study.

10. Follow-up note from ___, dated 11/05/01: Left lumbar radiculopathy and left hip pain, pending EMG.
11. Follow-up note from ___, dated 11/21/01: The EMG done on 11/02/01 reveals bilateral L-5 radiculopathy.
12. Follow-up note from ___, dated 01/07/02: Would like to appeal concerning the decision of ___.
13. Letter to TWCC Medical Review Division by ___, dated 01/17/02.
14. Follow-up note from ___, dated 02/13/02: Patient continues to have significant intractable pain and needs a lumbar diskogram.
15. Diagnostic neuro-imaging report of a CT of the lumbosacral spine, dated 9/21/00: The principal abnormality is a left foraminal disk herniation at L3-4 encroaching on the left L-3 nerve root.
16. EMG/nerve conduction study report from ___, dated 10/09/00: Findings suggest bilateral L-4 radiculopathy.
17. Lumbar myelogram and CT, dated 10/25/00: There may be anterolisthesis of L-3 on L-4. There is a left foraminal herniation at L3-4.
18. MRI of the lumbar spine including contrast, dated 07/02/01: Partial loss of signal in the L4-5 disk. Small anterior osteophytes present at L3-4 and L2-3. The other lumbar disks are normal in contour and signal.
19. Lumbar myelogram and post-CT from 10/16/01: There has been a left laminotomy and extensive left facetectomy with marked disk space narrowing.
20. Lower extremity EMG study: Abnormal EMG suggestive of bilateral L-5 radiculopathy.
21. ___, SOAP note, dated 11/12/01, signed by ___: Status post lumbar spine surgery, microdiscectomy at L4-5 on 2/01/00, ongoing left radiculopathy.
22. ___, SOAP note, dated 11/26/01, signed by ___: Right lower radiculopathy, left lumbar radiculopathy ongoing.
23. ___, SOAP note, dated _____, signed by ___: Status post lumbar spine surgery, with ongoing left lumbar radiculopathy.
24. ___, letter of medical necessity for lumbar diskogram with post-diskographic CT, signed by ___
25. ___, SOAP note, dated 12/10/01, signed by ___.

B. BRIEF CLINICAL HISTORY:

This patient has undergone a lumbar laminectomy, facetectomy, and discectomy at L3-4 for a foraminal disk herniation. The patient's radiculopathy initially improved and now has recurred. There is evidence on the pre-operative study of anterolisthesis at the L3-4 level, indicative of some instability. Performing extensive facetectomy causes instability and post-laminectomy syndrome can be a consequence of the discectomy itself, but with the facetectomy, the instability is almost assured. The postoperative study shows small osteophytes which are traction osteophytes at the L3-4 disk which are also indicative of segmental instability. The patient had initial good relief with the surgery, not failure as has been indicated by the physician reviewer, but with the instability the radiculopathy has recurred.

C. DISPUTED SERVICES:

Lumbar diskogram with post-diskographic CT.

D. DECISION:

I DISAGREE WITH THE INSURANCE CARRIER IN THIS CASE. LUMBAR DISKOGRAPHY WITH POST-DISKOGRAPHIC CT IS MEDICALLY NECESSARY.

There is no evidence from the imaging studies that this is surgery for a degenerative disk but rather for post-laminectomy syndrome with instability created by the facetectomy and the laminectomy.

E. RATIONALE OR BASIS FOR DECISION:

In such a patient with documented instability and post-laminectomy syndrome, utilization of a diskogram and post-diskographic CT is a manner to objectively determine whether or not this disk is the pain generator or if adjacent disks contribute. It is important that this study be performed as delineated in the *North American Spine Society Guidelines to Provocative Diskography*, so the control disk is also included in the study.

F. DISCLAIMER:

The opinions rendered in this case are the opinions of this evaluator. This medical evaluation has been conducted on the basis of the

documentation as provided to me with the assumption that the material is true, complete and correct. If more information becomes available at a later date, then additional service, reports or consideration may be requested. Such information may or may not change the opinions rendered in this evaluation. My opinion is based on the clinical assessment from the documentation provided.

Date: 19 September 2002